



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
FREEDOM OF INFORMATION ACT BRANCH
Washington, D.C. 20570

Via email

September 25, 2023

Re: FOIA Request NLRB-2023-002118

Dear Hannah Denham (Alabama Media Group):

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received on September 7, 2023, in which you seek all documents in Case Nos. 10-CA-321521, 10-CA-321962, 10-CB-324495, 10-CA-324831, 10-CA-324494, 10-CA-323837, 10-CA-323996, 10-CA-323832, 10-CA-323791, 15-CA-323606, 10-CA-323284, 10-CA-321641 and 10-CA-321168. You assumed financial responsibility for the processing of your request in the amount of \$100.00. You also requested a fee waiver.

We acknowledged your request on September 7, 2023.

Your request is denied in part and granted in part, as explained below.

After conducting searches of the Agency's electronic casehandling system, NxGen, it is confirmed that the 13 requested cases are open and pending cases before the Agency's Region 10 and Region 15 offices. As such, I have determined that certain records responsive to your request are part of open investigative files and are exempt from disclosure pursuant to Exemption 7(A) of the FOIA, 5 U.S.C. § 552 (b)(7)(A). Exemption 7(A) allows an agency to withhold records included in an open investigatory file where disclosure could reasonably be expected to interfere with enforcement proceedings. *See NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 236 (1978). Thus, given the open status of the cases as pending investigations before the Regions, your request is denied, in part, in that the investigatory records in the case files are withheld in full at this time pursuant to Exemption 7(A).

Your request is granted to the extent that I have attached the formal records in the cases (206 pages), which are available to the public pursuant to NLRB FOIA regulations regardless of the open or closed status of a case. Upon my review, redactions have been made to certain information to protect the privacy interests of individuals named in the records. These redactions were made pursuant to FOIA Exemption 6, which protects personally identifying information the release of which would constitute a clearly unwarranted invasion of personal privacy, and

FOIA Exemption 7(C), which protects records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy. 5 U.S.C. § 552(b)(6) and (b)(7)(C).

Please note that Exemption 7(A) protection is “temporal in nature.” *Citizens for Responsibility & Ethics in Wash. v. Dep’t of Justice*, 746 F.3d 1082, 1097 (D.C. Cir 2014) (citing *NLRB v. Robbins Tire*, 437 U.S. 214, 223-24 230-32 (1978)). As such, case file records may become disclosable, subject to applicable exemptions, after the case closes, that is, once a Board decision and/or court order issues, there has been full compliance with a settlement, or the case has otherwise been closed under Agency procedures. Accordingly, you may wish to file a new request at that time.

The status of the open cases can be tracked on the Agency website at www.nlr.gov by going to the Cases & Decisions tab, clicking case search, entering the case number in the search box and viewing the case page or by clicking the links here:

<https://www.nlr.gov/case/10-CA-321521>
<https://www.nlr.gov/case/10-CA-321962>
<https://www.nlr.gov/case/10-CB-324495>
<https://www.nlr.gov/case/10-CA-324831>
<https://www.nlr.gov/case/10-CA-324494>
<https://www.nlr.gov/case/10-CA-323837>
<https://www.nlr.gov/case/10-CA-323996>
<https://www.nlr.gov/case/10-CA-323832>
<https://www.nlr.gov/case/10-CA-323791>
<https://www.nlr.gov/case/15-CA-323606>
<https://www.nlr.gov/case/10-CA-323284>
<https://www.nlr.gov/case/10-CA-321641>
<https://www.nlr.gov/case/10-CA-321168>

For the purpose of assessing fees, we have placed you in Category C, as a representative of the news media, in that you qualify as a person “actively gathering news for an entity that is organized and operated to publish or broadcast news to the public.” NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(1)(vii). Accordingly, there is no charge assessed for this request. Given your placement as a news media requester, your request for a fee waiver is moot.

You may contact Teresita Sanabria, the FOIA Specialist who processed your request, at (202) 273-4000 or by email at teresita.sanabria@nlrb.gov, as well as the Agency’s FOIA Public Liaison, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in addition to the FOIA

Specialist, can further explain responsive and releasable agency records, suggest agency offices that may have responsive records, and/or discuss how to narrow the scope of a request in order to minimize fees and processing times. The contact information for the Agency's FOIA Public Liaison is:

Kristine M. Minami. FOIA Public Liaison
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: FOIAPublicLiaison@nrlb.gov
Telephone: (202) 273-0902
Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
Email: ogis@nara.gov
Telephone: (202) 741-5770
Toll free: (877) 684-6448
Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at: <https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

Nancy E. Kessler Platt, Chief FOIA Officer
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: DLCFOIAAppeal@nrlb.gov

Any appeal must be postmarked or electronically submitted within 90 calendar days of the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

Please be advised that contacting any Agency official (including the FOIA Specialist, FOIA Officer, or the FOIA Public Liaison) and/or OGIS does not stop

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the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

Sincerely,

/s/ Kristine M. Minami

Kristine M. Minami
Acting FOIA Officer

Attachment: (206 pages)